

## **REMARKS**

Claims 1-64 were pending in the present application when this Office Action was mailed (June 6, 2004). Claims 1, 14, 22, 29, 42, 49, 51 and 59 have been amended to clarify aspects of these claims. Accordingly, claims 1-64 remain pending.

In the Office Action mailed June 6, 2004, the drawings were objected to and all the claims were rejected. More specifically, the status of the application in light of this Office Action is as follows:

(A) The drawings were objected to as allegedly failing to show features specified in the claims;

(B) Claims 1-4, 7-17, 19-24, 26-30, 32-37, 39-45, 47-54, and 56-63 stand rejected under 35 U.S.C. § 102b as being anticipated by U.S. Patent No. 3,421,6942 Hawkins ("Hawkins"); and

(C) Claims 5, 6, 18, 25, 31, 38, 46, 55, and 64 stand rejected under 35 U.S.C. § 103a as being unpatentable over Hawkins in view of U.S. Patent No. 5,092,539 Caro ("Caro").

The undersigned attorney wishes to thank the Examiner for engaging in a telephone interview on August 26, 2004. During the telephone interview, the Examiner agreed that the claims would be allowable if amended to clarify (a) that a connecting portion for a canard is offset from a rotation axis of the canard, or (b) the connecting portion passes above an aircraft passenger cabin. Independent claims 1, 14, 22, 29, 42, 49, 51, and 59 have been amended to include at least one of these features. The following remarks reflect the above agreement, and expand upon the discussions of the telephone interview.

### **A. Response to the objection to the drawings**

The drawings were objected to as allegedly failing to show flight control surfaces of a canard. During the August 26, 2004 telephone interview, the undersigned attorney directed the Examiner's attention to paragraph 20 of the specification (as filed) which describes movable flight control surfaces of a canard, with reference to Figure 3.

Accordingly, and as agreed to by the Examiner during the August 26 telephone interview, the objection to the drawings should be withdrawn.

**B. Response to the Section 102 rejections**

Independent claims 1, 14, 22, 29, 42, 49, 51 and 59 have all been amended in accordance with the agreement reached between the Examiner and the undersigned attorney during the August 26, 2004 telephone interview. Accordingly, the Section 102 rejections of these claims should be withdrawn. Claims 2-4, 7-13, 15-17, 19-21, 23, 24, 26-28, 30, 32-34, 43-45, 47, 48, 50, 51-54, 56-58, 60 and 61 all depend from one of the above independent claims. Accordingly, the Section 102 rejections of these claims should be withdrawn for the foregoing reasons and for the additional features of these dependent claims.

Independent claim 35, which was not specifically addressed during the August 26 telephone interview, is directed to a canard for an aircraft and includes an airfoil portion configured to be positioned external to an aircraft fuselage, and a connecting portion configured to attach to an aircraft internal to the fuselage. An actuator is operatively coupled to the connecting portion and is configured to rotate the connecting portion and the airfoil portion at a rate of about 20 degrees per second or more.

The applied references appear not to disclose or suggest at least the foregoing feature. Hawkins discloses a canard that is movable through an angle of plus 20 degrees to minus 20 degrees, but fails to disclose or suggest any rate at which the canard is moved, let alone a rate of "about 20 degrees per second or more," as recited in claim 35. Accordingly, the applied references fail to support a Section 102 rejection of claim 35 and therefore the Section 102 rejection of claim 35 should be withdrawn. The Section 102 rejections of claims 36, 37 and 39-41, which depend from claim 35, should be withdrawn for the foregoing reasons and for the additional features of these dependent claims.

Claim 62 is directed to a method for operating an aircraft canard and includes features generally similar to those of claim 35. Claim 63 depends from claim 62. Accordingly, the Section 102 rejections of claims 62 and 63 should be withdrawn for the

foregoing reasons discussed above with reference to claim 35, and for the additional features of these dependent claims.

**C. Response to the Section 103 rejections**

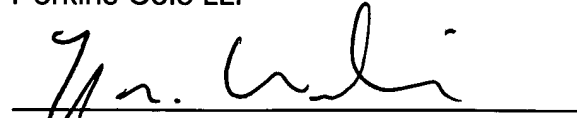
Claims 4-6, 18, 25, 31, 38 and 64 all stand rejected under 35 U.S.C. § 103a as being obvious in light of Hawkins and Caro. These claims all depend from one of the previously discussed independent claims. Caro fails to cure the deficiencies of Hawkins as an anticipatory reference with respect to claims 35 and 62, and the combination of Hawkins and Caro fails to disclose or suggest the features described above with reference to independent claims 1, 14, 22, 29, 42, 49, 51, and 59, or the claims depending therefrom. Accordingly, the outstanding Section 103 rejections of these claims should be withdrawn for the foregoing reasons and for the additional features of these claims.

**D. Conclusion**

In view of the foregoing, the claims pending in the application comply with the requirements of 35 U.S.C. § 112 and patentably define over the applied art. A Notice of Allowance is, therefore, respectfully requested. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-3257.

Respectfully submitted,

Perkins Coie LLP



John M. Wechkin

Registration No. 42,216

Date: Sep 2, 2004

**Correspondence Address:**

Customer No. 25096

Perkins Coie LLP

P.O. Box 1247

Seattle, Washington 98111-1247

(206) 359-8000